

CALIFORNIA COASTAL COMMISSION

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Hearing Date: Sept. 10, 2004
Commission Action:

**Fri 14b****STAFF REPORT: APPEAL**
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISIONS: Approval with Conditions

APPEAL NUMBER: A-5-VEN-04-315

APPLICANT: St Joseph Center (Attn: Rhonda Meister)

AGENT: Charlene Dekker, DMJM

APPELLANTS: Steve Aguilar, Joe Bates, Todd Flournoy, George Gianfrancisco, Barbara Gibson, Tom Gibson, Marie Hammond, Anita Holcomb, Jon Huertas, Jason Teague and Roger Webster.

PROJECT LOCATION: 204 Hampton Drive, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Appeal from decision of the City of Los Angeles approving Local Coastal Development Permit No. APCW2003-3304 for the demolition of an 11,000 square foot school building/community service center (St. Joseph Center), and construction of a new two story church as an expansion to an existing church (St. Clement's) and a 41-foot high, 30,000 square foot building for the provision of non-profit community services to indigents (e.g. child care, counseling, classes, culinary training and referral services).

SUMMARY OF STAFF RECOMMENDATIONS

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the proposed projects' conformance the Chapter 3 policies of the Coastal Act for the following reasons:

The local coastal development permit approves demolition of an 11,000 sq. ft. former school building (now St. Joseph Center) currently used for church offices and operation of a food pantry/social service center, and construction of a 30,000 square foot institutional building across five residentially designated lots for the same uses. The building is located in a sixteen-lot area now occupied by a former nunnery, a church and a public parking lot. The 41' high building will exceed the 25-to-30-foot height limit established for residential and commercial uses in the Oakwood area in the City's certified Land Use Plan (LUP) for Venice and does not conform to LUP development standards for lot combination. The new structure

includes no parking. Instead, the applicant proposes to provide parking for the proposed development on an existing parking lot owned by St. Clement's Church that the St. Joseph Center, Saint Clement's Church and other institutions on the campus now use. St. Clement's Church owns and operates two parking lots on its 12-lot campus (Exhibits 4 and 5). Both lots are included in a parking plan that the City approved in as part of the Zoning Administrator's Determination approving this project. The lower lot, which the applicant proposes to landscape as part of this development, is a separate legal lot and located in the City of Santa Monica, and is metered to allow public parking. In order to secure the shared parking conditions, the City CUP requires that the applicant record a statement of agreement to all terms and conditions over the entire church property, including the portion within the City of Santa Monica. The proposed parking plan and the proposed project's height, land use, setbacks and design raise substantial issues concerning the Chapter 3 policies of the Coastal Act, specifically Sections 30222, 30251 and 30252.

The **motion** to carry out the staff recommendation is on **Page 6**.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/01.
2. City of Los Angeles Specific Plan for Venice, Ordinance No. 172,897, 12/22/99.
3. City of Los Angeles Local Coastal Development Permit No. APCW2003-3304.
4. City of Los Angeles Mitigated Negative Declaration No. ENV-200-330-MND.

I. APPELLANTS' CONTENTIONS

The Los Angeles City Council's action to approve Local Coastal Development Permit No. APCW2003-3304 for the proposed project located at 204 Hampton Drive in the Oakwood area of Venice has been appealed by Steve Aguilar, Joe Bates, Todd Flournoy, George Gianfrancisco, Barbara Gibson, Tom Gibson, Marie Hammond, Anita Holcomb, Jon Huertas, Jason Teague and Roger Webster.

The grounds for appeal raised by the appellants are:

1. Lot Consolidation -- the Certified Venice LUP limits lot consolidation to three lots; the 30,000 sq. ft. structure extends over five lots; the façade is not "broken up" to reduce massing as required in the LUP.
2. The proposed building is out of scale with the existing community character; the height will extend 41 feet above the street in an area where the LUP establishes a height limit of 30 feet above the centerline of the road.
3. Community character. Because the building is elevated on a pad above the street, it is incompatible with preserving the pedestrian environment of Venice as identified in the certified LUP.
4. Land Use -- The LUP designates these lots as Medium Density Residential and the zoning of the lots is RD1.5. There is no "Community Center" or "Institutional Use"

envisioned in the certified LUP, and no provision in the certified LUP for allowing these uses as a conditional use.

5. The applicant's proposal is essentially an office building on residentially designated lots. The building could be sold to a third party as an office building, which is inconsistent with the LUP.
6. Parking – The project provides no on-site parking; the shared parking is not sufficient for all uses sharing it; the shared use parking is not sufficiently protected in event the building is sold.
7. Parking – The shared parking lot is metered and is currently used for parking by beach goers, customers of commercial uses and local residents. The loss of this local parking supply may have adverse impacts on coastal access. This issue merits scrutiny by the Commission in order to determine whether such impacts can be mitigated. [Coastal Act Section 30211.]
8. The project will be a bad precedent for "grandfathering" existing non-conforming uses that are inconsistent with the LUP.
9. The exceptions to the height and development standards that the City permitted are a bad precedent, because they will inevitably be applied to commercial uses.

The full text of the appellants' assertions is found in Exhibit 7.

II. LOCAL GOVERNMENT ACTION

The applicant submitted the application for the proposed development to the City of Los Angeles Planning Department in the spring of 2003. The proposed project required approval of the following discretionary actions:

1. Local Coastal Development Permit No. APCW2003-3304.
2. Venice Specific Plan Project Permit.
3. Specific Plan Exception
4. Conditional Use Permit.
5. Zoning Administrator's Determination (Shared Parking).
6. Mitigated Negative Declaration No. ENV-2003-3305-MND.

City records state that on July 17, 2003, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued a mitigated negative declaration and determined that by imposing conditions, the impacts could be reduced to a level of insignificance. On February 18, 2004, the West Los Angeles Planning Commission considered the Specific Plan Exception/Conditional Use/Coastal Development Permit/Zoning Administrator's Determination and Specific Plan Project Permit at one public hearing and approved the proposal with administrative conditions and conditions specifically relating to each action. The decision was issued on March 22, 2004. Under the terms of the City Charter, the Conditional Use Permit was appealable to City Council; the other actions, including the coastal development permit, were not.

The City provided the Commission and interested parties of the West Los Angeles Planning Commission decision on March 22, 2004, noting that the decision on the Conditional Use Permit could be appealed to the City Council. Because a substantive part of the City's

possible action was pending, the City provided no Notice of Final Action to the Coastal Commission at the end of the appeal periods established by the March 22, 2004 West Los Angeles Planning Commission Determination.

The City Council received four appeals of the Conditional Use Permit within the 15-day appeal period, including an appeal by the applicant. On Wednesday June 2, 2004, the Planning and Land Use Management Committee (PLUM Committee) of the Los Angeles City Council held a hearing on the appeal of the conditional use permit. On June 22, 2004, the Los Angeles City Council considered and adopted the report from the West Los Angeles Area Planning Commission in approving the Conditional Use Permit, as modified by the PLUM committee at its June 2, 2004 hearing.

The conditions imposed (Exhibit 6) require that:

“An acknowledgment and agreement to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and be binding on any subsequent owners. ... The agreement shall be recorded over the entire church property, including the portion within the City of Santa Monica, in order to secure the shared parking conditions and conditional use for the church use expansion.”

The City permit also includes conditions to address height and to relieve the visual impact of the façade along Hampton Drive; other conditions address neighborhood compatibility issues including the hours of operation, hiring a security guard, fencing the parking lot, limiting the number of children enrolled in the child care center, uses by other organizations, noise, clean up of streets and the behavior of clients. The applicant is also required to construct a wall to provide privacy for a nursery school located on the west side of Hampton Drive, and provide a 24-hour hot line for neighborhood complaints. Other conditions address water quality impacts of the parking lot; construction impacts, debris removal, landscaping of the parking lot, and require the applicant to obtain a permit from the City of Santa Monica for improvements to the parking lot. The special conditions imposed by the City Council are found in Exhibit 6.

The City, in its combined action imposed conditions on the coastal development permit; Venice Specific Plan Project Permit, the Specific Plan Exception (height and bulk), and the Zoning Administrator's Determination are found in Exhibit 6. The West Los Angeles Planning Commission imposed Condition 4 addressing compliance with plans and Condition 32 addressing the coastal development permit:

Condition 4. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit" A", except as may be revised as a result of this action. Minor deviations may be allowed in order to comply with provisions of the Municipal Code and the intent of the subject permit authorization, and if the applicant is unable to obtain approvals from the City of Santa Monica for any improvements to the parking lot areas located In the City of Santa Monica.

Coastal Development Permit

32. Any changes to the project as permitted by Condition No.4, and any portions of the project not detailed herein shall comply with the applicable provisions of the Venice Local Coastal Program Land Use Plan.

The City Council action, which includes all conditions, is found in Exhibit 6. The City Council adopted the West Los Angeles Planning Commission findings, which are founding Exhibit 6.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13302-13319 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act.

After a final local action on a local coastal development permit, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Coastal Act Section 30602).

The appeal and local action are then analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act [Section 30625(b)(1)]. If the Commission finds that the appeal raises a substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter.

At this point, the Commission may decide that the appellants' contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands. Alternatively, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Section 13114.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-VEN-04-315 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed."*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-VEN-04-315

The Commission hereby finds that Appeal No. **A-5-VEN-04-315** presents a substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project and Area Description

The proposed project is the demolition of an 11,000 square foot school building now used as a community center and construction of a 41-foot high, 30,000 square foot institutional building for the provision of non-profit community services to indigents (e.g. childcare, counseling, classes, culinary training, and referral services).

According to the West Los Angeles Planning Commission staff report, the project is located on a church campus that includes 16 record lots that is located on the south side of Marine Street (in Santa Monica) and extends into Venice. The church campus is bounded on the north by Marine St., on the west by Hampton Drive, on the east by Third St. and on the south by private development (See Exhibits 3, 4 and 5) between Second Street and Hampton Drive and Second and Third Streets in Santa Monica. The eight lots in the City of Los Angeles are located along Hampton Drive, and on the southwest side of Third Street. The campus is located both in the City of Santa Monica and in the Oakwood Planning Area of Venice, in a neighborhood bordered by Rose Avenue on the south, the City of Santa Monica border on the north and Hampton and then Main St. on the west and Lincoln Boulevard on the east. Hampton Drive is one block east of Main Street; the beach lies two blocks west of Main Street; Rose extends to Lincoln, which is the coastal zone boundary, and further east. The 11,000 sq. ft. building that is to be demolished extends over five lots and fronts Hampton Drive. The existing building is currently used for the operation of the St. Joseph's Center food pantry and counseling services as well as offices and meeting rooms, which are used by both the church

and the St. Joseph's Center; other existing uses on the property include St. Clement's Catholic Church, the St. Clement's rectory and a convent (Exhibit 4).

Hampton Drive is a northwest-southeast street that parallels an older railroad right of way, which curves northwest through Venice. This property is located on the transition area between the older industrial spine of Venice and the residential community of Oakwood to the east. The land to the west of Hampton Drive has been long zoned and developed for light industrial uses. After the abandonment of the railroad right-of-way in the nineteen-seventies, many older industrial buildings were demolished or converted to modern commercial, industrial and office uses including film editing; theaters, and cafes. West of Hampton Drive, across from the applicant's site there is a temple and nursery school. Several "artist's lofts" have been constructed along Hampton Drive south of Rose Avenue; a four story office multi-story gym has been constructed to the west of Hampton, facing Main Street. There is a strip of commercial, multi-family and light industrial uses along Rose Avenue to the east of Hampton Drive, while the side streets north of Rose Avenue are designated for residential use and developed with duplexes and a few older single-family houses and apartment buildings. The land is hilly and slopes up toward the Ocean Park district of Santa Monica. Current uses and zoning are shown in Exhibit 3.

The property subject to this application is designated Medium Density Residential in the Certified Land Use Plan and zoned RD1.5. The three different uses identified in the Land Use Plan and the current zoning all are reflected in the development surrounding this project. The certified Land Use Plan and the current zoning designate the lots west of Hampton "Limited Industry" (or M1-1) and further west, along Main Street as Commercial and Medium Density Residential. The Land Use Plan designates the five lots abutting Rose Avenue and directly south of the project as Medium Density Residential. East of Third Street, the lots fronting Rose Avenue are designated Neighborhood Commercial and the lots on the side streets (Third through Seventh Streets) both north and south of Rose Avenue are designated Medium Density Residential (Low Medium 2). The Zoning Ordinance allows churches, community centers and nursery schools as a conditional uses in a residential area; the zoning ordinance allows public benefit projects in industrial, commercial, and high-density residential zones; the Certified Land Use Plan is silent on Conditional Uses and on institutional uses. The zoning for the Venice LCP has not yet been certified by the Commission.

The building is proposed as a two level structure built around a central courtyard, with two levels built above existing finished grade, and a small basement under one wing. The courtyard is planned on the western (Hampton Drive) side of the structure. According to the City report, the site slopes approximately 30 feet from Hampton Drive to the eastern property line, creating a 10 foot grade differential from the curb to the buildable pad. Because of the slope, the courtyard and building entrances will be located ten feet above street level and accessed by staircases. A truck delivery entrance from Hampton Drive serves a basement level that is under the northern wing. The basement includes storage and security offices; the ground floor level of the structure will house a nursery school/day care center, a large meeting room, three small classrooms, church offices and an industrial kitchen intended to serve as a culinary arts school. On the upper level, the applicant proposes 29 small counseling offices, a conference room and an open hall. The applicant proposes a landscaped 2:1 slope between the street and the western side of the building. To reduce the visual impact of the structure, the City required the second story to be set back ten feet behind the first story and required

offsets and changes in color and texture every twenty feet. After granting the exceptions (height, setback and lot combination), the West Los Angeles Planning Commission imposed the following special condition:

The building shall be designed as follows:

- a. The building facade along Hampton Drive shall be designed with visual breaks or Architectural Features, including balconies or terraces, with a change of material or a break in the plane every 20 feet in horizontal length and every 15 feet in vertical length.
- b. The first story of the building shall be limited to a height of 25 feet. The northerly portion of the second story shall be stepped back at least 10 feet behind the front yard set back of the first story and shall be limited to a maximum height of 41 feet. All building heights shall be measured in accordance to Section 9, B of the Specific Plan. The second story portion of building may be located 5 feet closer to the rear property line, resulting in a 10-foot rear setback, in order to compensate for the additional front setback.
- c. The colors utilized for the building materials shall be generally per the drawings submitted to the Area Planning Commission and consistent with the nature of the adjacent residential area. Where brick is used, the color shall be generally red or neutral. Prior to the issuance of any permits a rendering showing the colors of the building shall be submitted to the Council Office for review and the Zoning Administrator for approval.

The roof parapet extends 41 feet above Hampton Drive, but according to the applicant, the bulk of the building is 25' 4" above average finished grade; the parapet extends 30 feet above the level of the finished floor, which is about 11 feet above Hampton Drive.

The project required exceptions from the height and setback requirements of the Venice Specific Plan, which the West Los Angeles Planning Commission granted to take into account the slope of the lot, and to allow "flexibility in design."

B. Factors to be Considered in Substantial Issue Analysis

Section 30625(b) (1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a **substantial issue** does exist with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. In considering the consistency with Chapter 3, Section 13311 of Title 18 of the California Code of Regulations specifies that the local government should consult the Interpretive Guidelines and the Commission's prior actions. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in regards to the appeal.

The appeals assert that:

1. Lot Consolidation -- the Certified Venice LUP limits lot consolidation to three lots; the 30,000 sq. ft. structure extends over five lots; the façade is not "broken up" to reduce massing as required in the LUP. The project does not conform to the development standards in the LUP that apply to these lots
2. The proposed building is out of scale with the existing community character; the height will extend 41 feet above the street in an area where the LUP establishes a height limit of 30 feet above the centerline of the road.
3. Community character. Because the building is elevated on a pad above the street, it is incompatible with preserving the pedestrian environment of Venice as identified in the certified LUP
4. Land Use – The LUP designates these lots as Medium Density Residential and the zoning of the lots is RD1.5. There is no "Community Center" or "Institutional Use" envisioned in the certified LUP, and no provision in the certified LUP for allowing these uses as conditional use.
5. The applicant's proposal is essentially an office building on residentially designated lots. The building could be sold to a third party as an office building, which is inconsistent with the LUP.
6. Parking – The project provides no on-site parking; the shared parking is not sufficient for all uses sharing it; the shared use parking is not sufficiently protected in event the building is sold.
7. Parking – The shared parking lot is metered and is currently used for parking by beach goers, customers of commercial uses and local residents. The loss of this

local parking supply may have adverse impacts on coastal access. This is an issue that merits closer scrutiny by the Commission in order to determine whether such impacts can be mitigated. [Coastal Act Section 30211.]

8. The project will be a bad precedent for “grandfathering” existing non-conforming uses that are inconsistent with the LUP.
9. The exceptions to the height and development standards that the City permitted are a bad precedent, because they will inevitably be applied to commercial uses.

1. Public Access Parking. The appellants contend that the project will have impacts on public access because it increases the demands on an existing multi-use parking lot. Specifically, the appellants contend: that the project provides no on-site parking; the shared parking is not sufficient for all uses sharing it; the shared use parking is not sufficiently protected in event the building is sold. They further contend that the shared parking lot is metered and is currently used for parking by beach goers, customers of commercial uses and local residents and that the loss of this local parking supply may have adverse impacts on coastal access. They assert that this is an issue that merits closer scrutiny by the Commission in order to determine whether such impacts can be mitigated. [Coastal Act Section 30211.]

Coastal Act Section 30210 provides for maximum access; Section 30211 provides that existing access must be protected; Section 30212.5, requires public facilities to be distributed through the coastal zone, Section 30223 requires upland areas suitable for recreation support to be reserved for that purpose, and Section 30252 requires development to provide adequate parking facilities or substitute means of serving the development with public transportation

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of [Section 4 of Article X of the California Constitution](#), maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Amended by Ch. 1075, Stats. 1978.)

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5 Public facilities; distribution

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30223 Upland areas; recreation:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the

development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The City approved a Zoning Administrator's Determination of a shared parking plan that allowed the new structure to share use of two existing parking lots owned by St Clement's Church. The lot is now used by the St. Joseph Center, the St. Clement's Church, the current nursery school, and by other services that the church and center run. One lot, the "lower lot" is also metered so that patrons of Main Street establishments can park there. The lot is located in the City of Santa Monica. The City of Los Angeles reviewed and approved with conditions, (Exhibit 6) a parking plan that concluded that because of the different times of peak demands of the various uses sharing the lot, there would be adequate parking even with the expanded structure. In order to assure that the lot continued to be available for St. Joseph Center, the City Council required an agreement to that effect and its adopted conditions to be recorded against all 16 lots on the church campus. The City Council rejected a condition imposed by the West Los Angeles Area Planning Commission that required that the lots be tied.

With regard to parking, the LUP establishes ratios that are identical to the Commission's Interim Guideline parking standards, which are derived from studies conducted by the City of Los Angeles. The City acknowledges that this project is inconsistent with LUP parking standards. However, the LUP also allows for consideration of shared parking for commercial uses if a study shows that there is adequate parking due to differing time demands of different uses that share the lot. The proposed development does not add a new use, but instead expands a structure that accommodates a current use. However, the building is significantly expanded, which is normally associated with increasing the number of clients and employees and an increased parking demand.

In approving the parking, the City found:

LUP Policy II.A.11 states "Shared parking arrangements may be permitted to accommodate new commercial uses and intensification of existing commercial uses provided that a detailed parking study demonstrates that the proposed shared parking arrangement will not negatively affect coastal access or access to public recreational facilities. Public beach parking shall not be used for shared parking arrangements." The LUP does not address institutional uses, such as the St Joseph Center. Notwithstanding, a detailed parking study has been conducted for the project and shows that the proposed shared parking arrangement would not negatively affect coastal access or access to public recreational facilities. As conditioned, this shared parking plan complies with those elements of the General Plan. Conditions have been imposed to lock in the uses, the days and hours of operation and the leased parking spaces. Furthermore, the project parking is not public beach parking. Conditions have been imposed to clarify the uses and hours of the parking spaces and to ensure that there will be adequate parking during peak periods. Therefore, as conditioned, this shared parking plan complies with those elements of the General Plan.

The Commission has also approved shared parking plans, some of them in Venice. It has normally reviewed parking plans very carefully because of potential impacts on access and recreation. The proposed development is located more than 300 feet from the inland extent of

the beach. In fact, it is located about four blocks inland of the beach and likely to be used for parking only during times of very heavy use. It is however very close to the Main Street commercial area, which is a visitor serving and restaurant center. A project in this location that does not provide for the parking that it generates could have an impact on public access and recreation. Moreover, the appellants contend that the building could be sold or recycled and a new commercial use, with different scheduling and client mix could occupy the site. The coastal zone of Venice is deficient in parking, so a development that is short of parking could have significant impacts on its neighbors and on the public. Therefore, the resolution of the parking issues by allowing shared use of the present lots when the new structure is nearly three times as large raises a substantial issue with the public access and recreation policies of the Coastal Act. Lastly, while the applicant has provided the parking study to the staff, the City has not yet provided the record for this appeal.

2. Community Character and Scale.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states in part:

New development shall: ...

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

These policies of the Coastal Act require that development protect visual resources, community character and special communities. The Commission has limited height and scale of structures in its approvals in Venice, and the City incorporated many of those limitations into the certified Venice Land Use Plan (LUP), which the Commission certified in on June 14, 2001. One of the methods that the Commission has used to protect community character and scale has been to limit the height of new development and number of lots across which a building may extend—the width of the structure as viewed from the street. These methods of protecting character and scale are found in the policies of the certified LUP, and are intended to carry out Sections 30251 and 30253(5) of the Coastal Act

(a) Lot consolidation. The Commission has considered that the number of lots that a building extends over affects the apparent scale of the structure. This is most evident in north

Venice where existing one and two story buildings are found next to older three story apartments, but where most of the existing structures occupy only one 30-foot wide lot. In such neighborhoods, the Commission has consistently heard testimony concerning the small scale of existing development. While Oakwood includes six-unit sixties apartment buildings and at least 20 newer denser apartment buildings that extend over approximate six lots, many existing structures are older one and two story bungalows. In response to concerns about scale and neighborhood character, the Venice LUP for Oakwood Millwood and Southeast Venice allows no more than three adjacent legal lots to be consolidated, and requires when the lots are consolidated that there be visual breaks in the façade of the structure.

I. A. Residential Land Use and Development Standards

- **Policy I. A. 1. Residential Development.**

- b. **Residential Lot Consolidations.** In order to preserve the nature and character of existing residential neighborhoods, lot consolidations shall not be permitted in the Venice Canals and Silver Strand residential neighborhoods. No more than two lots may be consolidated in the Ballona Lagoon West, Ballona Lagoon (Grand Canal) East, Southeast Venice, Milwood, North Venice and Oxford Triangle neighborhoods and on walk streets. Lot consolidations of not more than three lots shall be permitted in the Oakwood and Marina Peninsula residential neighborhoods. Lot consolidations may be permitted only subject to the following limitations:
 - i. No building or structure shall be constructed on what were more than two contiguous lots prior to lot consolidation with the exception of subterranean development that is entirely below street elevation.
 - ii. Building facades shall be varied and articulated to provide a pedestrian scale which results in consistency with neighboring structures on small lots. Such buildings shall provide habitable space on the ground floor, a ground level entrance and landscaping and windows fronting the street. No increase in the number of units shall result from the lot consolidation.
 - iii. Front porches, bays and balconies shall be provided to maximize architectural variety.

LUP Commercial Development Standards also limit building over more than three lots (with certain exceptions), require ground level development to have street level windows at least one door, breaks on the façade of the street wall and also require that 50 percent of the ground floor street wall shall be developed with pedestrian entrances, or display windows affording views into retail office, gallery, or lobby space, and that blank walls shall be limited.

I. B. Commercial Land Use and Development Standards
Policy I. B. 7. Commercial Development Standards

Lot Consolidation. Two commercial lots may be consolidated, or three with subterranean parking with the following restrictions:

1. Methods for insuring that the structure does not look consolidated (breaks in front wall of ten feet minimum) shall be utilized.
2. Subterranean parking shall be fully depressed with roof at natural grade.

Exception: Lot consolidation of more than two lots shall be permitted for mixed-use projects which conform to the existing scale and character of the surrounding community and provide adequate on-site parking.

Building Separation: A minimum of five feet between commercial and residential buildings (except for mixed-use projects).

In approving this present project, The City approved a structure that extends of over five legal lots. The City noted in approving the project that the new counseling center/community center was replacing a building that also extended across five legal lots. It further found:

Lot Consolidation: The proposed new building will replace an existing building on the subject property that now straddles five lots. The new building is proposed to straddle those same five lots and does not change the consolidation of those five lots. The provisions of the specific plan limiting lot consolidation to three lots was intended to preclude large buildings which would have been out of scale with the existing neighborhood. In this case, the property already consists of five consolidated lots, and is surrounded by two- and three-story structures. In addition, the property is opposite from industrially zoned properties and a four- story office building.

Strict application of the Venice Specific Plan would not allow the replacement structure to occupy the same number of lots as the existing structure. Also, dividing the project into two or three pieces located on separate lots would be impractical due to the resulting limitations on the widths of separate buildings, the inefficient use of the site resulting from applicable widths, and separate side yard setbacks. The existing services provided by the applicant would not be able to continue with these restrictions, which, as discussed above, would be inconsistent with the general purpose and intent of the Specific Plan and impose an unnecessary hardship upon the applicant. Since the proposed design of the building achieves the purposes of the Specific Plan by addressing the scale and massing of the building and would include a 15-foot setback from the street, the building is in line with the residential buildings to the south, and will be consistent with all of the surrounding uses. Therefore, the specific plan exception is, consistent with the intent of the Venice Specific Plan.

In response to the LUP standards, the City required visual breaks in the façade and found that the provision of a courtyard in the middle of the building reduces the apparent bulk of the building as seen from Hampton Drive. However, the project appears to be inconsistent with the certified LUP and with the Commission's past actions in limiting the horizontal extent of structures as seen from the street. Moreover the City has considered the scale of buildings in the industrially zoned area of Venice that are across the street from this site in considering the applicant's request for an exception to limits on scale that apply in a residentially zoned area.

Because it is located at the top of a 10-foot high 2:1 slope, the building does not provide ground level entrances and exits or windows that open up the building to the street.

(b) Height. The opponents assert that the project raises substantial issue with the standards of the Coastal Act protecting community character and scale because the project exceeds the height limits established in the Venice specific plan and LUP. They contend that the proposed building is out of scale with the existing community character; the height will extend 41 feet above the street in an area where the LUP establishes a height limit of 30 feet above the centerline of the road.

The Venice LUP states:

Height: Oakwood, Milwood, and Southeast Venice: Not to exceed 25 feet for buildings with flat roofs; or 30 feet for buildings utilizing a stepped back or varied roofline. The portion that exceeds 25 feet in height shall be set back from the required front yard one foot for every foot in height above 25 feet. Structures located along walk streets are limited to a maximum of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

While the interpretive guidelines allow for adjusting height measurement to the slope of a lot by measuring from the grade as the slope rises, the land use plan does not incorporate this technique. Because most of Venice is comparatively flat the Commission has approved few developments on hillside lots in Venice. In approving the project, the City granted a specific plan exception based in part on the slope of the lot, finding that because of the slope, the height of the structure should be measured from existing grade and that the height limit should be applied with consideration of the topography. The City also noted that an existing structure directly adjacent to and south of the proposed structure is 35 feet high.

In making this exception, the City analyzed the effects of the height of the structure on views to and along the coastline, from the street and on neighborhood character and scale. The City noted the height of the adjacent structures that may be higher and on the presence of the existing larger scale church campus. The City findings noted that the residential structure to the east, due to the hill would be height than the proposed new structure. The commercial structures to the west, the older non-conforming structure directly to the south of the development and the church campus were viewed as establishing the scale of the surroundings. The City staff report, basing a conception of the community character on the existence of several higher structures in the neighborhood, concluded that the development was consistent with the character and scale of the community in spite of its inconsistency with the standards of the Land Use Plan.

c. Pedestrian environment. The appellants argue that because the building is elevated on a pad above the street, it is incompatible with preserving the pedestrian environment of Venice as identified in the certified LUP and as required in the commercial and residential development standards quoted above. As noted above, because it is located at the top of a 10-foot high 2:1 slope, the building does not provide ground level entrances and exits or windows that open up the building to the street. Access to the structure is by two staircases leading from Hampton Drive. The courtyard and other amenities are not visible from Hampton Drive. The appellants also point out that the existing parking lot, that is located in the city of Santa Monica and not part of this application presents a five-foot high-unbroken wall along Hampton drive.

The City considered the opponents' suggestions that to alleviate the difference in grade between the ground floor and the street, the applicant could excavate the site. The City found that requiring this grading was not feasible. However, the courtyard of the new structure will not be visible from the street. Instead, the applicant will landscape the slope leading up from the street.

While the Commission may eventually agree with the City's evaluation, (a) the project is higher than the certified LUP allows; (b) the building extends laterally along five lots, instead of three as the LUP allows, (c) the building appears to be higher than a significant number of residential structures in the immediate community to the east, and (d) the structure, because of the topography, is visually removed from street level and not visually accessible to pedestrians or from street level. The LUP and the Commission's prior actions only provide guidance, and are not the final standards of approval; the standard of review is the Chapter 3 policies of the Coastal Act. However, the project's inconsistency with the LUP and the Commission's past actions addressing the height and bulk of structures in Venice raises substantial issues concerning the Chapter 3 policies of the Coastal Act, specifically Sections 30251 and 30253.

3. Land Use

The appellants argue that the certified LUP designates these lots as Medium Density Residential and the zoning of the lots is RD1.5. They further argue that there is no "Community Center", "Church", or "Institutional Use" envisioned in the certified LUP, and no provision in the certified LUP for allowing these uses as a conditional use. They further contend that the applicant's proposal is essentially an office building on residentially designated lots. The building could be sold to a third party as an office building, which is inconsistent with the LUP.

As noted above, the standard of review in the issuance of a coastal development permit prior to certification of the LCP is the consistency of the project with the Chapter 3 policies of the Coastal Act, and whether the approval of the project prejudices the ability of the local government to adopt an LCP that is consistent with the Coastal Act.

Section 30604 (a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The Coastal Act provision to avoid prejudicing the development of an LCP does not require the Commission to impose uniform land use designations on all areas of a neighborhood. The requirement to plan does not forbid the inclusion of institutions, or other community serving land uses as part of the pattern of development of a community. Instead of imposing uniformity of use and protecting property values (as envisioned in the early years of the zoning movement), the Commission is responsible for protecting the coastline and its unique resources, some of which are communities. The Coastal Act requires that the

Commission approve development in the coastal zone based on priorities set in the Coastal Act.

Section 30255 Priority of coastal-dependent developments

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Thus, uses near and adjacent to beaches are encouraged to provide public recreation. Because residential use does not enhance public use of the coastline, it is the lowest priority. Because commercial and institutional uses serve more people, they are favored over residential uses if their operation is otherwise consistent with the Coastal Act. Therefore, the presence of an institutional use in a residential area is not in itself a substantial issue. Moreover, the City Zoning and Municipal Codes, which are still the applicable local standards, allow churches, community centers and schools as conditional uses in all residential areas.

In certifying the Land Use Plan, the Commission found that it was consistent with the Coastal Act. The lots subject to the present application are designated residential in the certified Land Use Plan even though the church and its ancillary schools and charitable institutions have long occupied them. The Land Use Plan does not provide for the expansion or the continuation of any existing nonprofit institutions on residentially designated lots anywhere in Venice. The lots on which other institutions such as the Vera Davis Center and a number of churches are located are also residentially designated. The Commission has not yet not considered or certified the implementation program for Venice. In most LCP's, the provisions for conditional uses are developed as part of the implementation ordinance. In nearby communities such as Rancho Palos Verdes, Redondo Beach and Marina del Rey, the land use designations are tempered in the implementation ordinance with a provision that allows community or visitor serving uses in residential zones based on a conditional use permit. Because the use is inconsistent with the certified Land Use Plan, the approval of the new St. Joseph's Center building raises a substantial issue of consistency with the provisions of the Coastal Act that provide that permit approvals shall not prejudice the adoption an LCP that is consistent with the Coastal Act.

4. Nonconforming Uses and Structures. The opponents argue that the project will be a bad precedent for "grandfathering" existing non-conforming uses that are inconsistent with the LUP, and that the exceptions to the height and development standards that the City permitted are a bad precedent, because they will inevitably be applied to commercial uses. An LUP policy addresses nonconforming structures, but no policy addresses non-conforming uses. The LUP policy that addresses nonconforming structures states:

- **Policy I. E. 5. Nonconforming Structures.** Where extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming or there is another nonconforming structure on the site, or a project is proposed that would greatly extend the life of a nonconforming structure or that eliminates the need for the nonconformity, the following shall apply:

Unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP, unless in its nonconformity it achieves a goal associated with community character (i.e. the reuse and renovation of a historic structure) or affordable housing that could not be achieved if the structure conforms to the current standards of the certified LCP.

Because the City was administering the pre-certification permit issuing program, based on the Coastal Act and not the LCP, and because the City was at the same time administering its own zoning laws and conditional use permit process, based on the Municipal Code, the action cannot show how the City would administer the LCP. The implementation ordinance, which will attempt to combine both processes, has not been approved; the Commission and City staffs are still discussing what parts of the City Code should be considered. In approving this development, the City followed provisions of its Zoning Code and its Municipal Code that allow certain community serving uses as conditional uses. The applicant argues that the approval of this project under the Municipal Code raises no substantial issue with respect to the future administration of the LCP. However, the LUP, which the Commission has recently used for guidance in Venice, is quite clear about the continuation of non-conforming structures on commercial and residential lots. This existing structure will be completely demolished and the new structure will not conform to the development standards in the LUP for commercial and residential lots. The Commission certified this Land Use Plan. Therefore the rebuilding of this structure over five lots raises a substantial issue of conformance with the community character and design policies of the Coastal Act.

Conclusion. Because of the importance of many of the Coastal Act issues raised to by the appellants, the proposed project should be reviewed and considered by the Commission pursuant to the Chapter 3 policies of the Coastal Act. The Commission finds that a substantial issue exists with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act and with the City's approval of the project. The Commission will have the opportunity to review and act on the proposed project at the subsequent de novo hearing on the appeal A5-VEN-04-315. The de novo hearing will be scheduled at a future Commission meeting. The Commission's actions on the appeal at the de novo hearing will ensure that the proposed development is consistent with the Chapter 3 policies as guided by the specific building standards of the certified Venice LUP.